

#### **§ 4.904**

##### **§ 4.904 When does my appeal commence and end?**

For purposes of the period in which the Department must issue a final decision in your appeal under § 4.906:

(a) Your appeal commences on the date ONRR receives your Notice of Appeal.

(b) Your appeal ends on the same day of the 33rd calendar month after your appeal commenced under paragraph (a) of this section, plus the number of days of any applicable time extensions under § 4.909 or 30 CFR 1290.109. If the 33rd calendar month after your appeal commenced does not have the same day of the month as the day of the month your appeal commenced, then the initial 33-month period ends on the last day of the 33rd calendar month.

[79 FR 62052, Oct. 16, 2014]

##### **§ 4.905 What if a due date falls on a day the Department or relevant office is not open for business?**

If a due date under this subpart falls on a day the relevant office is not open for business (such as a weekend, Federal holiday, or shutdown), the due date is the next day the relevant office is open for business.

##### **§ 4.906 What if the Department does not issue a decision by the date my appeal ends?**

(a) If the IBLA or an Assistant Secretary (or the Secretary or the Director of OHA) does not issue a final decision by the date an appeal ends under § 4.904(d), then under 30 U.S.C. 1724(h)(2), the Secretary will be deemed to have decided the appeal:

(1) In favor of the appellant for any nonmonetary obligation at issue in the appeal, or any monetary obligation at issue in the appeal with a principal amount of less than \$10,000;

(2) In favor of the Secretary for any monetary obligation at issue in the appeal with a principal amount of \$10,000 or more.

(b)(1) If your appeal ends before the ONRR Director issues a decision in your appeal, then the provisions of paragraph (a) of this section apply to the monetary and nonmonetary obligations in the order that you contested in your appeal to the Director.

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(2) If the ONRR Director issues a decision in your appeal before your appeal ends, and if you appealed the Director's decision to IBLA under 43 CFR part 4, subpart E, then the provisions of paragraph (a) of this section apply to the monetary and nonmonetary obligations in the Director's decision that you contested in your appeal to IBLA.

(3) If the ONRR Director issues an order or a decision in your appeal, and if you do not appeal the Director's order or decision to IBLA within the time required under 30 CFR part 1290, then the ONRR Director's order or decision is the final decision of the Department and 30 U.S.C. 1724(h)(2) has no application.

(c) If the IBLA issues a decision before the date your appeal ends, that decision is the final decision of the Department and 30 U.S.C. 1724(h)(2) has no application. A petition for reconsideration does not extend or renew the 33-month period.

(d) If any part of the principal amount of any monetary obligation is not specifically stated in an order or ONRR Director's decision and must be computed to comply with the order or ONRR Director's decision, then the principal amount referred to in paragraph (a) of this section means the principal amount ONRR estimates you would be required to pay as a result of the computation required under the order, plus any amount due stated in the order.

[64 FR 26259, May 13, 1999, as amended at 79 FR 62051, 62052, Oct. 16, 2014]

##### **§ 4.907 What if an IBLA decision requires ONRR or a delegated State to recalculate royalties or other payments?**

(a) An IBLA decision modifying an order or an ONRR Director's decision and requiring ONRR or a delegated State to recalculate royalties or other payments is a final decision in the administrative proceeding for purposes of 30 U.S.C. 1724(h).

(b) ONRR or the delegated State must provide to IBLA and all parties any recalculation IBLA requires under paragraph (a) of this section within 60 days of receiving IBLA's decision.

(c) There is no further appeal within the Department from ONRR's or the

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State's recalculation under paragraph (b) of this section.

(d) The IBLA decision issued under paragraph (a) of this section together with recalculation under paragraph (b) of this section are the final action of the Department that is judicially reviewable under 5 U.S.C. 704.

[64 FR 26259, May 13, 1999, as amended at 79 FR 62051, Oct. 16, 2014]

### **§ 4.908 What is the administrative record for my appeal if it is deemed decided?**

If your appeal is deemed decided under § 4.906, the record for your appeal consists of:

(a) The record established in an appeal before the ONRR Director;

(b) Any additional correspondence or submissions to the ONRR Director;

(c) The ONRR Director's decision in an appeal;

(d) Any pleadings or submissions to the IBLA; and

(e) Any IBLA orders and decisions.

[64 FR 26259, May 13, 1999, as amended at 79 FR 62051, Oct. 16, 2014]

### **§ 4.909 How do I request an extension of time?**

(a) If you are a party to an appeal subject to this subpart before the IBLA, and you need additional time after an appeal commences for any purpose, you may obtain an extension of time under this section.

(b) You must submit a written request for an extension of time before the required filing date.

(1) You must submit your request to the IBLA at Interior Board of Land Appeals, 801 North Quincy Street, Arlington, Virginia 22203, using the U.S. Postal Service, a private delivery or courier service, hand delivery or telefax to (703) 235-8349;

(2) If you file a document by telefax, you must send an additional copy of your document to the IBLA using the U.S. Postal Service, a private delivery or courier service or hand delivery so that it is received within 5 business days of your telefax transmission.

(c) If you are an appellant, in addition to meeting the requirements of paragraph (b) of this section, you must agree in writing in your request to extend the period in which the Depart-

ment must issue a final decision in your appeal under § 4.906 by the amount of time for which you are requesting an extension.

(d) If you are any other party, the IBLA may require you to submit a written agreement signed by the appellant to extend the period in which the Department must issue a final decision in the appeal under § 4.906 by the amount of time for which you are requesting an extension.

(e) The IBLA has the discretion to decline any request for an extension of time.

(f) You must serve your request on all parties to the appeal.

[64 FR 26259, May 13, 1999, as amended at 67 FR 4368, Jan. 30, 2002]

## **Subpart K—Hearing Process Concerning Acknowledgment of American Indian Tribes**

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, 479a-1.

SOURCE: 80 FR 48459, Aug. 13, 2015, unless otherwise noted.

### **GENERAL PROVISIONS**

### **§ 4.1001 What terms are used in this subpart?**

As used in this subpart:

*ALJ* means an administrative law judge in DCHD appointed under 5 U.S.C. 3105 and assigned to preside over the hearing process.

*Assistant Secretary* means the Assistant Secretary—Indian Affairs within the Department of the Interior, or that officer's authorized representative, but does not include representatives of OFA.

*Day* means a calendar day. Computation of time periods is discussed in § 4.1004.

*Department* means the Department of the Interior, including the Assistant Secretary and OFA.

*DCHD* means the Departmental Cases Hearings Division, Office of Hearings and Appeals, Department of the Interior.

*Discovery* means a prehearing process for obtaining facts or information to assist a party in preparing or presenting its case.